

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
-vs-) Case No. CR-19-12-F
)
)
JERRY RAY CRAINE,)
)
Defendant.)

ORDER

On July 20, 2022, the court entered an order (doc. no. 81) striking an application filed by defendant, which the court construed as a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. The court struck the section 2255 motion because it did not comply with Rule 9.2(a) of the court's Local Civil Rules, which requires a section 2255 motion be on a form provided by the clerk of this court or supply the court with the equivalent information required by the form. The court directed the clerk of the court to send defendant a copy of the Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence in Federal Custody and accompanying instructions.

The court is currently in receipt from defendant of an objection to the court's July 20, 2022 order. Doc. no. 82. Defendant objects to the court's order on the ground that the court's Local Civil Rules are not applicable to 28 U.S.C. § 2255. The court construes defendant's objection as a motion to reconsider the court's July 20, 2022 order. A district court may grant a motion to reconsider "when the court has misapprehended the facts, a party's position, or the law." United States v.

Christy, 739 F.3d 534, 539 (10th Cir. 2014) (citing Servants of Paraclete v. Does, 204 F.3d 1005, 1012 (10th Cir. 2000)).

Rule 12 of the Rules Governing Section 2255 Proceedings for the United States District Courts states:

The Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure, to the extent that they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these rules.

Rule 83(a) of the Federal Rules of Civil Procedure states the district court may adopt and amend rules governing its practice. Rule 9.2(a) of the court's Local Civil Rules is such a rule. Thus, Rule 9.2(a) is applicable to the filing of a section 2255 motion.

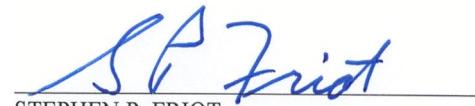
Further, Rule 2(c) of the Rules Governing Section 2255 Proceedings for the United States District Courts provides that a section 2255 motion "must substantially follow either the form appended to these rules or a form prescribed by a local district-court rule." The form appended to the Rules Governing Section 2255 Proceedings for the United States District Courts is similar to the form provided by the clerk of this court. Defendant's section 2255 motion did not substantially follow either the form appended to the Rules Governing Section 2255 Proceedings for the United States District Courts or the form provided by the clerk of this court.

The court finds no basis to reconsider the July 20, 2022 order. Consequently, the court finds defendant's motion to reconsider should be denied.

Accordingly, defendant's objection to the court's July 20, 2022 order (doc. no. 82), construed as a motion to reconsider, is **DENIED**. The clerk of the court is again **DIRECTED** to send defendant a copy of the Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence in Federal Custody and accompanying

instructions. Defendant shall complete the motion;¹ date and sign it; and return it to the clerk of the court as soon as practicable. Defendant is not required to send any copies along with the motion; only the original motion need be sent.

IT IS SO ORDERED this 3rd day of August, 2022.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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¹ The motion may be completed in defendant's handwriting rather than typed.